

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

August 28, 2000

D032099 People v. Reynolds

We reverse three of Reynolds's convictions for violating section 12021, subdivision (a)(1), i.e., counts 10, 11 and 12. Our reversal requires modification of the abstract of judgment to strike three 25-year-to-life terms imposed on counts 10, 11 and 12. In all other respects, the judgment is affirmed. Kremer, P.J.; We Concur: Work, J., O'Rourke, J.

D033706 People v. Kovacs

The judgment is affirmed. Kremer, P.J.; We Concur: Work, J., O'Rourke, J.

D034523 People v. Lee

The convictions are affirmed. The sentence is reversed and the matter is remanded for a determination of whether Lee has a prior strike and resentencing. Because Lee admitted the prior section 666 allegation (a prior theft conviction), the court shall receive evidence and determine whether the prior theft conviction was a serious felony conviction. O'Rourke, J.; We Concur: Kremer, P.J., Work, J.

D034039 People v. Rodgers

The judgment is affirmed. Benke, J.; We Concur: Kremer, P.J., Work, J.

D033994 In re PATRICE T., a Juvenile

The order is affirmed. O'Rourke, J.; We Concur: Work, Acting P.J., Haller, J.

D032488 People v. Robles, Jr.

The judgment is reversed in part as to the ordered restitution to the Escondido Fire Department (\$53,276.63) and the Vista Fire Department (\$5,568.00). The Superior Court is directed to prepare an amended abstract of judgment striking those restitution orders, and forward a corrected copy to the Department of Corrections. In all other respects, the judgment is affirmed. Work, Acting P.J.; We Concur: Benke, J., McIntyre, J.

D034266 People v. Griffin

The judgment is affirmed. Haller, J.; We Concur: Work, Acting P.J., Nares, J.

D031255 Penn v. Prestige Stations, Inc., et al.

We reverse the judgment with instructions to vacate the \$95,000 in compensatory damages awarded for spoliation as well as the \$500,000 in exemplary damages and to reconsider Penn's cost bill in light of our disposition. In all other respects the judgment is affirmed. Appellant to recover their costs of appeal. CERTIFIED FOR PUBLICATION. Benke, Acting P.J.; We Concur: Huffman, J, Nares, J.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

August 29, 2000

**D035689 People, as Attorney General v. Superior Court of San Diego County/
District Attorney**

Let a writ issue directing the superior court to vacate its orders of May 8 and May 12 (clarified on May 26), 2000, and to enter new orders consistent with this opinion. This decision will become final as to this court 10 days after it is filed. (Cal. Rules of Court, rule 24(d).) At that time, the stay issued by this court on May 26, 2000, will be vacated. In the interest of justice, no costs are awarded. (Cal. Rules of Court, rule 56.4) CERTIFIED FOR PUBLICATION. Huffman, J.; We Concur: Kremer, P.J., Work, J.

D033569 People v. Dorsey

The trial Court is ordered to modify the abstract of judgment to reflect the credits Dorsey receives for actual time spent in prison and forward the same to the Department of Corrections. Benke, Acting P.J.; We Concur: Huffman, J., Haller, J.

D034599 In re James N., a Juvenile

Judgment affirmed. McDonald, J.; We Concur: Kremer, P.J., Nares, J.

D036190 Scheff v. Superior Court of San Diego County/Morton

The petition is denied.

D036127 Loretz v. City of Chula Vista Mobile Home Rent Review Commission/Hall et al.

In that appellant has not responded to our request for a judgment, the appeal is dismissed without prejudice as premature.

D032858 People v. Buck

The matter is remanded to the trial court so that it may develop a factual basis for the first prior prison term enhancement. If no such basis is developed, the court is to strike that enhancement. In all other respects, the judgment is affirmed. Work, Acting P.J.; We Concur: Haller, J., O'Rourke, J.

D034467 People v. Keating

Judgment affirmed. Kremer, P.J.; We Concur: Benke, J., Nares, J.

**D035602 Gilda C. v. Superior Court of San Diego County/San Diego County Health and
Human Services Agency**

The petition is denied. McDonald, J.; We Concur: Work, Acting P.J., Haller, J.

D036138 Butler v. Harris et al.

The petition is denied at this time without prejudice to filing a new petition four weeks before the next scheduled visit. By separate order, this court has expedited the appeal in Butler v. Harris, D036144.

D033353 Chavez v. Becton Dickinson & Company

The judgment is reversed and remanded with respect to Chavez's unfair competition cause of action; in all other respects the judgment is affirmed. The parties shall bear their own costs on appeal. O'Rourke, J.; We Concur: Benke, Acting P.J., Huffman, J.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

August 29, 2000 (Continued)

D035037 In re Erica E. a Juvenile

The orders are affirmed. Benke, J.; We Concur: Work, Acting P.J., Nares, J.

D033970 People v. Castillo

Judgment affirmed. Huffman, Acting P.J.; We Concur: Haller, J., McIntyre, J.

D034611 People v. Pettaway

The judgment is affirmed. Haller, J.; We Concur: Work, Acting P.J., McDonald, J.

D034459 In re Jerald W., a Juvenile

The judgment is modified by specifying a term of eight months for possessing marijuana for sale (rather than 16 months) and a total maximum period of confinement of seven years (rather than seven years eight months). As so modified, the judgment is affirmed. The juvenile court is directed to file an amended commitment and to forward it to CYA. O'Rourke, J.; We Concur: Work, Acting P.J., Nares, J.

D034040 People v. Garza

The judgment is affirmed. Benke, J.; We Concur: Work, Acting P.J., McIntyre, J.

D032371 Lee v. Sukumar, et al.

Submission in the above-entitled cause is vacated. A draft opinion has been prepared; complex issues require further conferencing within the panel. The cause is resubmitted this day, August 29, 2000.

D032477 People v. Bourquin

The appeal from the judgment (order revoking probation) is dismissed as moot. Benke, Acting P.J.; We Concur: Huffman, J., Haller, J.

D033498 People v. Pendleton

The judgment is affirmed. Work, J.; We Concur: Kremer, P.J., McIntyre, J.

D033507 People v. Riordan

The judgment is affirmed. Nares, J.; We Concur: Work, Acting P.J., McDonald, J.

D034037 People v. Hoffman

The order for direct victim restitution is modified to reflect the proper amount of \$39,544.74. In all other respects, the judgment is affirmed. Nares, J.; We Concur: Kremer, P.J. McDonald, J.

D034437 Conservatorship of Warrack

Judgment affirmed. Kremer, P.J.; We Concur: Work, J., Huffman, J.

D035257 In re Maudicella S. a Juvenile

Orders affirmed. Nares, J.; We Concur: Work, Acting P.J., Benke, J.

D034464 People v. Puvaslowski

The judgment is affirmed. Nares, J.; We Concur: Work, Acting P.J., McIntyre, J.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

August 29, 2000 (Continued)

D033506 People v. Moore

D035120 In re Moore on Habeas Corpus

The petition for writ of habeas corpus In re Moore, D035120, is consolidated with the appeal People v. Moore, D033506, for disposition.

D033506 People v. Moore

D035120 In re Moore on Habeas Corpus

The judgment is affirmed; the petition is denied. Benke, Acting P.J.; We Concur: Huffman, J., McDonald, J.

D034615 People v. Franco

The judgment is affirmed. McDonald, J.; We Concur: Work, Acting P.J., Benke, J.

D035025 People v. Baker

Judgment affirmed. Benke, Acting P.J.; We Concur: Nares, J., McDonald, J.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

August 30, 2000

D034567 Rothschild v. Tyco International (US), Inc. et al.

The judgment is reversed and the matter is remanded to the superior court, which is directed to vacate its order sustaining the defendants' demurrer to the second amended complaint without leave to amend and dismissing the action and to enter a new order overruling the demurrer. Rothschild is to recover her costs of appeal. CERTIFIED FOR PUBLICATION. McIntyre, J.; We Concur: Huffman, Acting P.J., Haller, J.

D034601 Green v. Goldman

The order denying Dr. Goldman costs of proof is affirmed; the order awarding Dr. Green costs of suit is reversed. The parties are to bear their own costs on appeal. McIntyre, J.; We Concur: Work, Acting P.J., McDonald, J.

D032925 People v. Gilpen

The judgment is affirmed. McIntyre, J.; We Concur: Huffman, Acting P.J., Haller, J.

D035882 In re Clyde M., a Juvenile

The respondent's motion to dismiss the petition for writ of mandate is granted. The petition is dismissed.

D035479 In re Nicholas M., a Juvenile

The respondent's motion to dismiss the appeal is granted. The appeal is dismissed.

D034171 People v. Baker

The petition for rehearing is denied.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

August 31, 2000

D036151 In re Marriage of Christensen and Cummins

The appellant having failed to timely pay the filing fee, the appeal is dismissed.

**D035694 Anderholt & Walker et al. v. Superior Court of the County of San Diego/California
Joint Powers Insurance Authority.**

The petition is denied.

D034192 People v. Galvez

Judgment affirmed. O'Rourke, J.; We Concur: Work, Acting P.J., Benke, J.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

September 1, 2000

D035965 Myers v. San Diego County Superior Court/LeBeau et al.

The petition is denied.

D033468 In re Monica G., a Juvenile

Affirmed. Haller, J.; We Concur: Huffman, Acting P.J., McIntyre, J.

**D036251 Huber et al. v. San Diego County Superior Court/
Frank's Welding Services, Inc. et al.**

The petition is denied.

D035545 Marriage of Foote

Upon written request filed by appellant, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 19(b)).

D036254 Moore v. Superior Court of the County of San Diego/People

The petition is denied.

D035939 Xenonics, Inc. v. Worldwide Technologies, et al.

Pursuant to California Rules of Court, rule 10(c), the appeal filed June 19, 2000, is dismissed for appellant's failure to timely file the agreed statement (Cal. Rules of Court, rule 6(a)).

D035444 Paroissien v. Conklin

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 17(a). The appeal is dismissed.

D033221 People v. Wutzke

Count 15 is reversed. The concurrent 15-year-to-life sentences imposed for counts 6, 11, 12 and 13 are vacated and the matter is remanded for further proceedings consistent with this opinion. In all other respects the judgment is affirmed. CERTIFIED FOR PUBLICATION. Huffman, J.; We Concur: Haller, J., McDonald, J.

**D035678 Maria C. v. San Diego County Superior Court/San Diego County Health and
Human Services Agency**

The petition is dismissed. Haller, J.; We Concur: Huffman, Acting P.J., McDonald, J.